

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ANTHONY MERLO,
Plaintiff,
v.
CITY OF PALO ALTO,
Defendant.

Case No. [18-cv-03943-BLF](#)

**ORDER SETTING BRIEFING
SCHEDULE ON DEFENDANT'S
MOTION TO DISMISS**

On July 2, 2018, Plaintiff Anthony Merlo ("Plaintiff"), proceeding *pro se*, filed the instant action against Defendant the City of Palo Alto ("Defendant"). *See* ECF 1. On July 18, 2018, Defendant moved to dismiss the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). *See* ECF 8. However, Plaintiff is not an electronic filer, and Defendant failed to serve Plaintiff with its motion to dismiss by mail until August 1, 2018. *See* ECF 11 (Certificate of Service). Defendant requests that the Court re-calculate the deadlines for filing opposition and reply briefs for the motion to dismiss. *Id.*

Meanwhile, Plaintiff filed a request that the Clerk enter default against Defendant for failing to timely respond to the Complaint. *See* ECF 12. Defendant filed its opposition to

1 Plaintiff's request for entry of default on August 6, 2018. *See* ECF 14.

2 Because Defendant has shown that Plaintiff has been properly served with its motion to
3 dismiss as of August 1, 2018, the Court GRANTS Defendant's request for the Court to re-
4 calculate the briefing deadlines. The Court SETS Plaintiff's time to file an opposition brief for
5 **August 20, 2018**. Defendant may file a reply on or before **August 27, 2018**. A hearing on
6 Defendant's motion to dismiss remains scheduled for **October 25, 2018 at 9:00 A.M.** The Court
7 also CONTINUES the initial Case Management Conference in this matter from October 11, 2018
8 to **October 25, 2018 at 11:00 A.M.**

9 Plaintiff's request for entry of default against Defendant is referred to the Court Clerk.
10 Any remaining issue on entry of default will be considered by the Court along with the motion to
11 dismiss.

12 **IT IS SO ORDERED.**

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15 Dated: August 6, 2018



BETH LABSON FREEMAN
United States District Judge